

DRAWINGS

Figs. 6 and 13 of the drawings were objected to because the horizontal portions of the stirrups were not shown.

Please note that both Figs. 6 and 13 are cross sectional views that would not show the horizontal portions of the stirrups.

As described on page 7 of the specification, Fig. 6 is a cross section of the shackle assembly taken along section lines VI - VI of Fig.3. Fig. 13 is a cross section of the shackle assembly taken along section lines XIII – XIII of Fig. 12. Neither of Figs. 6 or 13 should show the horizontal run of the stirrups. Accordingly, reconsideration of the drawing correction is requested.

REMARKS

This is a full and timely response to the outstanding Final Office Action mailed May 1, 2003. Reconsideration and allowance of the application and presently pending claims 1-2, 4-16, 18-21 and 23-25 are respectfully requested.

Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-2, 4-16, and 18-21 and 23-25 remain pending in the present application. More specifically, claims 1, 7, 16, and 19-21 have been currently amended, claims 3, 17, and 22 have been cancelled, and claims 23-25 are newly added. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Allowable subject matter

The Office action indicates that claims 6 and 18, though objected to as being

dependent upon a rejected base claim, would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6 and 18 are rewritten herein as approved by the Examiner. Consequently, Applicant requests allowance of claims 6 and 18.

Claim Rejections – 35 U.S.C. § 103

Claims 1-5 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

Claims 7-8 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan and Hazenbroek as applied to claim 8 above, and further in view of U.S. Patent No. 3,781,946 to Altenpohl.

Claims 11-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. as modified by Sullivan and Hazenbroek as applied to claim 8 above, and further in view of Altenpohl.

Claims 19-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,635 to Linville in view of Sullivan in view of U.S. Patent No. 4,896,399 to Hazenbroek.

Claim 1

a) **Statement of the Rejection**

Claim 1 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

The Office Action states in pertinent part, "Regarding claim 1, the claim language states that the trolley engages the weighing scale track. The claim does not state that specific components of the shackle are to be weighed only and therefore these limitations have no bearing on the patentability of the claim. The claim does not state that a lighter mass of the trolley is to be weighed and instead states that the trolley engages the weighing scale track, which infers that the entire trolley is weighed when the trolley is on the weighing scale track." (Emphasis added).

b) Response to Rejection

Applicant appreciates Examiner's comments, which point out one of several important aspects of Applicant's invention that are neither disclosed or suggested in the prior art references. As is known, MPEP 706.2(j) *Contents of a 35 U.S.C. 103 Rejection* states that such disclosure or suggestion must exist as one of three basic criteria for establishing a *prima facie* case of obviousness. Furthermore, MPEP 706.2(j) also states that the prior art references "must teach or suggest all of the claim limitations."

The Office action also states that "the Sullivan reference is used to disclose the telescoping motion of the shackle only" (Emphasis added) and "the Sullivan reference is not used to show the weighing of the device," while Nieuwelaar et al. "does not show the trolley moves upward or downward via a telescopic motion."

Applicant's shackle assembly allows the bird to be turned to face different cutting devices as the bird is advanced along the processing line. The telescopic movement

retards undesirable motions of the bird as the bird moves along the processing line, such as the bird swinging from its transport conveyor between cutting stations. On the other hand, Nieuwellaar uses a swivel link 25 to tilt an allow the upward swinging of the bird to occur. Applicant's turning star wheel can be engaged for turning the bird between cutting stations and the bird is more accurately received in the next cutting station.

Sullivan is not a weighing device. It teaches the concept of raising or lowering the load carrying hook 31 against the bias of a spring, to make it more convenient to unload the load from the overhead conveying system.. There is no suggestion in Sullivan that it be used for weighing.

Claim1 reads in pertinent part, "said connector means configured for providing a weight measurement consisting essentially of the weight of said bird carrier, said trolley, and the carcass, when said shackle assembly engages the weighing scale." The shackle assembly of claim 1 comprises a trolley support, a bird carrier, a trolley, and turning means. In response to the Examiner's objection, amended claim 1 incorporates weighing of specific components of the shackle assembly rather than the entire assembly.

Claims 2-5

a) Statement of the Rejection

Claims 2-5 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,037,351 to Van Den Nieuwelaar et al. in view of U.S. Patent No. 2,456,224 to Sullivan.

b) **Response to Rejection**

Claims 2, 4, and 5 depend directly or indirectly on independent claim 1. Since independent claim 1 is allowable over the prior references of record, then dependent claims 2, 4, and 5 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988). Consequently, Applicant requests allowance of claims 2, 4, and 5.

Claim 3 has been cancelled merely to reduce the number of claims. Applicant reserves the right to pursue the subject matter of this claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claims 2, 4 and 5 provide the details of how the telescopic connection is formed between the upper portion and the lower portion of the device. This is not taught by the applied references, this allows the device to contract vertically upon engaging the weigh scale, avoiding undesirable movement and enhancing accurate weighing.

Claim 7

a) **Statement of the Rejection**

Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

The Office Action states in pertinent part, "Nieuwelaar et al. does not disclose a connector means for non-rotatably and telescopically connecting the bird carrier to the trolley support."

b) Response to Rejection

Applicant has been unable to find in either Sullivan or in Hazenbroek, disclosure related to Applicant's shackle assembly that improves the accuracy of weighing a carcass by telescopic movement of the bird, and rotates the bird for cutting the bird.

In the interests of further clarifying and/or defining the scope of the invention, and in response to the Examiner's objection to the language, Applicant has amended claim 7, which now reads in pertinent part, "said connector means configured for providing a weight measurement consisting essentially of the weight of said bird carrier, trolley, and the carcass, when said shackle assembly engages the weighing scale." The shackle assembly of claim 7 comprises a trolley support, a trolley, turning means, and a bird carrier for suspending the carcass. Consequently, amended claim 7 incorporates weighing of specific components of the shackle assembly rather than the entire assembly and turns the bird for accurate cutting of the bird.

At least this aspect of claim 7, is not disclosed by the cited prior art references, such disclosure being necessary (refer MPEP 706.2(j)) for a proper rejection under 35 U.S.C. § 103(a).

The Office Action further states that Nieuwelaar discloses "a cam." Assuming that this statement has been made in reference to Applicant's "turning means," Applicant has, in the interests of further clarifying and/or defining the invention, amended the pertinent part of claim 7, which now reads, "turning means, mounted to said trolley support, for rotating said trolley support together with said bird carrier."

Again, at least such a "turning means" of claim 7, is not disclosed by the cited prior art references in combination with the telescopic lifting of the bird, such disclosure being necessary (refer MPEP 706.2(j)) for a proper rejection under 35 U.S.C. § 103(a).

Consequently, Applicant requests that claim 7 allowed.

Claims 8 and 10

a) Statement of the Rejection

Claims 8 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan in view of U.S. Patent No. 6,179,702 to Hazenbroek.

b) Response to Rejection

Claims 8 and 10 depend directly or indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claims 8 and 10 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Also, these claims set forth the overlapping ends of the trolley support and the bird carrier, their aligned openings and the wheel axle extending there through. This is not shown in the applied references. Consequently, Applicant requests allowance of claims 8 and 10.

Claim 9

a) Statement of the Rejection

Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. in view of Sullivan and Hazenbroek as applied to claim 8 above, and further in view of U.S. Patent No. 3,781,946 to Altenpohl.

b) Response to Rejection

Claim 9 depends indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claim 9 is also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Also, there is no telescopic movement disclosed in Altenpohl. The lifting of the bird is accomplished by a tilting of the link between clevis member 36 and rollers 24, as shown in Fig. 1, similar to Nieuwelaar.

Consequently, Applicant requests allowance of claim 9.

Claims 11-17

a) Statement of the Rejection

Claims 11-17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Van Den Nieuwelaar et al. as modified by Sullivan and Hazenbroek as applied to claim 8 above, and further in view of Altenpohl.

b) Response to Rejection

Claim 17 has been cancelled merely to reduce the number of claims. Applicant reserves the right to pursue the subject matter of this claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claim 16 has been amended to include the limitations of cancelled claim 17.

Claims 11-16 depend directly or indirectly on independent claim 7. Since independent claim 7 is allowable over the prior references of record, then dependent claims 11-16 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

These claims also describe the specifics of the structural relationship of the parts of Applicant's device. These parts are part of the function of Applicant's device and neither the parts nor their function are taught or made obvious by the applied references.

Consequently, Applicant requests allowance of claims 11-16.

Claim 19

a) Statement of the Rejection

Claim 19 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,635 to Linville in view of Sullivan in view of U.S. Patent No. 4,896,399 to Hazenbroek.

b) Response to Rejection

Claim 19 sets forth the step of in response to passing the bird carrier over the weighing scale, telescopically lifting the bird carrier and the bird with respect to the trolley support, obtaining the weight measurement consisting essentially of the weight of the bird carrier and the carcass, turning the bird, and cutting the bird.

The applied art does not show the combinations of telescopic lifting for weighing, of turning and cutting together with weighing, as claimed. Consequently, Applicant requests that claim 19 be placed in allowance.

Claims 20-22

a) Statement of the Rejection

Claims 20-22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,635 to Linville in view of Sullivan in view of U.S. Patent No. 4,896,399 to Hazenbroek.

b) Response to Rejection

Claim 22 has been cancelled merely to reduce the number of claims. Applicant reserves the right to pursue the subject matter of this claim in a continuing application, if Applicant so chooses, and does not intend to dedicate the cancelled subject matter to the public.

Claim 21 has been amended to include the limitations of cancelled claim 22.

Claims 20-21 depend directly or indirectly on independent claim 19. Since independent claim 19 is allowable over the prior references of record, then dependent claims 20-21 are also allowable as a matter of law. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988).

Consequently, Applicant requests allowance of claims 20-21.

Prior Art Made of Record

The prior art of record has been considered, but is not believed to affect the patentability of the presently pending claims.

Commercial Success

The invention of this application has met with substantial commercial success. It is not only commercially successful, but has features and advantages not present in the prior art. Consideration of these aspects of the invention should be made.

Since its introduction in the summer of 2001 until early in the year 2003, the sales of the shackle of this application were approximately \$7,604,000. Additional sales have been made since then.

Prior to the development of the new shackle, the cut-up lines in poultry processing plants had no method to weigh the birds. It was necessary to weigh the bird on another processing line prior to being placed on the cut-up line. The invention of the new shackle enabled the cut-up function and the weighing function to be combined in the same line.

The design of this new shackle allows it to be more rigid when the bird is being cut, to insure the accuracy of the cut and to be telescopic to weigh the bird. The telescopic shackle basically serves three functions: (1) It allows the bird to be accurately weighed; (2) The new shackle is designed so that it can be accurately guided through the various cut-up modules of a processing line; and (3) The new shackle can be held more rigid when the cuts to be made are being made, to insure the accuracy of the cut. Since the new shackle is telescopic, it results in more accurate weighing of the bird and less motion of the bird. Only a small portion of the shackle is weighed during the weighing process.

Thus, the claimed invention has met with commercial success and provides a function not heretofore available.

Please refer to the Declaration Under Rule 132 filed in this application on February 20, 2003.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-2, 4-16, 18-21 and 23-25, are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


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